



UNIVERSITY OF
TORONTO
FACULTY OF LAW



Intellectual Property: Copyright, Trademark, and Patent 2009-2010

ע"פ/ג

Copyright

Professor Abraham Drassinower

BORA LASKIN LAW LIBRARY


SEP - 8 2009

FACULTY OF LAW
UNIVERSITY OF TORONTO

**Intellectual Property:
Copyright, Trademark, and Patent
2009-2010**

Copyright

Professor Abraham Drassinower



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

**Volume 1:
Copyright
Table of Contents**

I. Introduction

Compo Co. Ltd. v. Blue Crest Music Inc. (1979), 105 D.L.R. (3d) 249 (S.C.C.).....1
Bishop v. Stevens (1990), 72 D.L.R. (4th) 97 (S.C.C.).....1

II. Prerequisites for Copyright

A. Originality

Walter v. Lane, [1900] A.C. 539 (H.L.).....2
University of London Press Ltd. v. University Tutorial Press Ltd., [1916] 2 Ch. 601.....15
Kilvington Brothers Ltd. v. Goldberg (1957), 8 D.L.R. (2d) 768 (Ont. H.C.).....17
Feist Publications Inc. v. Rural Telephone Service Co., 499 U.S. 340 (1990).....20
CCH Canadian Ltd. v. Law Society of Upper Canada, [2004] S.C.J. No. 12.....34

B. Idea/Expression Dichotomy

Nichols v. Universal Pictures Corporation, 45 F.(2d) 119 (2nd Cir. 1930).....62
Moreau v. St. Vincent, [1950] 3 D.L.R. 713 (Ex.Ct.).....67
Deeks v. Wells, [1931] O.R. 818 (C.A.).....73

C. Merger

Morrissey v. Procter & Gamble Company, 379 F.2d 675 (1st Cir.1967).....74
Herbert Rosenthal Jewelry Corp. v. Kalpakian, 446 F.2d 738 (9th Cir.1971).....76
Delrina Corp. v. Triolet Systems Inc. (1993), 47 C.P.R. (3d) 1 (Ont. Gen. Div.).....80
Delrina Corp. v. Triolet Systems Inc. (2002), 58 O.R. (3d) 339 (Ont. C.A.)81

D. Fixation

Canadian Admiral Corporation ltd. v. Rediffusion Inc., [1954] Ex. C.R. 384.....83
Gould Estate v. Stoddart Publishing Co. (1996), 30 O.R. (3d) 520 (Gen.Div.).....84

III. Ownership

Gould Estate v. Stoddart Publishing Co. (1998), 39 O.R. (3d) 545 (C.A.).....87
Donoghue v. Allied Newspapers Ltd., [1938] 1 Ch. 106.....94

IV. Subject Matter

Baker v. Selden, 101 U.S. 99 (1879).....99
Hollinrake v. Truswell, [1894] 3 Ch. 420 (C.A.).....104
Cuisenaire v. South West Imports Ltd. (1968), C.P.R. 76 (S.C.C.).....109
Exxon Corporation v. Exxon Insurance Ltd., [1982] 1 Ch. 119 (C.A.).....113
Ladbroke (Football) Ltd. v. William Hill (Football) Ltd., [1964] 1 All E.R. 465 (H.L.).....119
DRG Inc. v. Datafile Ltd. (1987), 18 C.P.R. (3d) 538 (F.C.T.D.).....137
Apple Computer Inc. v. Mackintosh Computers Ltd. (1990), 71 D.L.R. (4th) 95 (S.C.C.).....144

V. Infringement

A. Establishing Infringement

<i>Francis Day & Hunter v. Bron</i> , [1963] 1 Ch. 587 (C.A.).....	148
<i>Boutin v. Bilodeau</i> (1992), 46 C.P.R. (3d) 395 (Que.C.A.).....	163
<i>Boutin v. Bilodeau</i> (1994), 54 C.P.R. (3d) 160 (S.C.C.).....	167

B. Substantial Part: Literal and Non-literal Copying

<i>Hawkes and Son (London) Ltd. v. Paramount Film Service Ltd.</i> , [1934] 1 Ch. 593 (C.A.).....	168
<i>King Features Syndicate Inc. v. O. and M. Kleeman Ltd.</i> , [1941] A.C. 417 (H.L.).....	174
<i>Computer Associates International Inc. v. Altai Inc.</i> , 982 F.2d 693 (2 nd Cir. 1992).....	177
<i>Delrina Corp. v. Triolet Systems Inc.</i> (2002), 58 O.R. (3d) 339 (Ont. C.A.)	202
<i>Theberge v. Galerie d'Art du Petit Champlain Inc.</i> , [2002] 2 S.C.R. 336	206
<i>Robertson v. Thomson Corp.</i> , [2006] 2 S.C.R. 363	246

C. Authorization

<i>CCH Canadian Ltd. v. Law Society of Upper Canada</i> , [2004] S.C.J. No. 12.....	34
<i>SOCAN v. Canadian Association of Internet Providers</i> , [2004] S.C.J. No. 44	271
<i>BMG Canada v. Doe</i> , (2005) FCA 193	274

D. Parallel Imports

<i>Euro-Excellence Inc. v. Kraft Canada Inc.</i> , [2007] 3 S.C.R. 20.....	280
--	-----

VI. User Rights and Fair Dealing:

<i>Hubbard v. Vosper</i> , [1972] 2 Q.B. 84 (C.A.).....	325
<i>Beloff v. Pressdram Ltd.</i> , [1973] 1 All E. R. 241 (Ch.).....	331
<i>Allen v. Toronto Star Newspapers Ltd.</i> (1997), 78 C.P.R. (3d) 115 (Ont.Gen.Div.).....	342
<i>Campbell v. Acuff-Rose Music Inc.</i> , 510 U.S. 569 (1994).....	351
<i>Cie Generale des Etablissements Michelin v. C.A.W.-Canada</i> (1996), 71 C.P.R. (3d) 348 (F.C.T.D.).....	371
<i>CCH Canadian Ltd. v. Law Society of Upper Canada</i> , [2004] S.C.J. No. 12.....	34

VII. Moral Rights

<i>Snow v. The Eaton Centre Ltd.</i> (1982), 70 C.P.R. (2d) 105 (Ont. H.C.).....	388
--	-----